

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

1) UNITED STATES OF AMERICA,)
Plaintiff,) Case No. 4:20-cv-0056-GKF-CDL
v.)
1) CHARLES W. SPENCER,)
2) CLAUDETTE A. SPENCER,)
3) ONEOK, INC.,)
4) CITY OF OWASSO, OKLAHOMA, and)
5) TULSA COUNTY, OKLAHOMA,)
Defendants.)

)

COMPLAINT

Plaintiff United States of America, for its complaint against defendants Charles W. Spencer; Claudette A. Spencer; ONEOK, Inc.; City of Owasso, Oklahoma; and Tulsa County, Oklahoma, alleges as follows:

1. This is a civil action to:
 - (a) Enforce the United States' federal tax liens against certain real property located at 9425 E. 106th Street N., Owasso, Oklahoma (the "Owasso Property"), and which is further described below;
 - (b) Obtain an order directing the sale of the Owasso Property; and
 - (c) Have the proceeds from a court-ordered sale distributed to the parties in amounts determined by the Court.

2. This action has been requested and authorized by the Chief Counsel of the Internal Revenue Service and is brought at the direction of a delegate of the Attorney General of the United States pursuant to 26 U.S.C. §§ 7401 and 7403.

Jurisdiction and Venue

3. This Court has jurisdiction over this case pursuant to 26 U.S.C. § 7402 and 28 U.S.C. §§ 1340 and 1345.

4. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b)(2) because this is the district in which the Owasso Property is situated.

Parties

5. Plaintiff is the United States of America.

6. Defendant Charles W. Spencer is the owner of the Owasso Property and is married to defendant Claudette A. Spencer.

7. Defendant Claudette A. Spencer is married to defendant Charles W. Spencer. She is named as a defendant to this suit pursuant to 26 U.S.C. § 7403(b) because she may claim an interest in the Owasso Property.

8. Defendant ONEOK, Inc., is an Oklahoma corporation and is named as a defendant to this suit pursuant to 26 U.S.C. § 7403(b) because it may claim an interest in the Owasso Property.

9. Defendant City of Owasso, Oklahoma, is named as a defendant to this suit pursuant to 26 U.S.C. § 7403(b) because it may claim an interest in the Owasso Property.

10. Defendant Tulsa County, Oklahoma, is named as a defendant to this suit pursuant to 26 U.S.C. § 7403(b) because it may claim an interest in the Owasso Property.

**Count I: Enforce the United States' Federal Tax Liens against the Owasso Property
Federal Income Tax Assessments against Charles and Claudette Spencer**

11. The United States incorporates by reference the allegations in paragraphs 1 through 10.

12. A delegate of the Secretary of the Treasury made assessments against Charles W. Spencer and Claudette A. Spencer for unpaid federal income taxes, penalties and interest on: December 21, 2009, December 9, 2013, and December 8, 2014 (for tax year 2006); June 18, 2012, December 9, 2013, and December 8, 2014 (for tax year 2008); May 21, 2012, July 2, 2012, December 9, 2013, and December 8, 2014 (for tax year 2009); September 3, 2012, December 9, 2013, and December 8, 2014 (for tax year 2011); November 25, 2013, and December 8, 2014 (for tax year 2012); and November 24, 2014 (for tax year 2013). The total amount of the assessments was \$97,398.31.

13. The IRS gave Charles W. Spencer and Claudette A. Spencer notices of assessment and made demands for payment on or about the date of each assessment listed above in paragraph 12.

14. Charles W. Spencer and Claudette A. Spencer failed to pay the liabilities identified in paragraph 12; therefore, they remain indebted to the United States for the unpaid balances plus statutory additions that have accrued since the dates of assessment, and will continue to accrue until paid in full.

15. A delegate of the Secretary of the Treasury made assessments against Charles W. Spencer for unpaid federal income taxes, penalties and interest on August 2, 2010, December 3, 2012, December 9, 2013, and December 8, 2014 (for the 2007 tax year). The total amount of the assessments was \$39,394.25.

16. The IRS gave Charles W. Spencer notices of assessment and made demands for payment on or about the date of each assessment listed above in paragraph 15.

17. Charles W. Spencer failed to pay the liabilities identified in paragraph 15; therefore, he remains indebted to the United States for the unpaid balances plus statutory additions that have accrued since the dates of assessment, and will continue to accrue until paid in full.

18. On November 25, 2019, the United States initiated an action to reduce to judgment the unpaid assessments made against Charles W. Spencer and Claudette A. Spencer referred to in paragraphs 12 through 17. *See United States v. Charles W. Spencer, et al.*, No. 3:19-cv-00966-bbc (W.D. Wis.).

19. On March 17, 2020, judgment was entered in favor of the United States and against Charles W. Spencer and Claudette A. Spencer regarding the unpaid federal income taxes, penalties and interest referred to in paragraphs 12 through 14 in the amount of \$92,165.15, plus interest on that amount accruing from February 6, 2020. *See United States v. Charles W. Spencer, et al.*, No. 3:19-cv-00966-bbc (W.D. Wis.), Dkt. 11.

20. On March 17, 2020, judgment was entered in favor of the United States and against Charles W. Spencer regarding the unpaid federal income taxes, penalties and interest referred to in paragraphs 15 through 17 in the amount of \$48,938.22, plus interest on that amount accruing from February 6, 2020.

Ownership of the Owasso Property

21. By quit-claim deed dated August 4, 2000, Charles W. Spencer acquired the Owasso Property.

22. The Owasso Property has a legal description in the records of Tulsa County, Oklahoma, as follows:

The East Half of the East Half of the West Half of the Southeast Quarter of the Southeast Quarter (E/2 E/2 W/2 SE/4 SE/4) of Section 12, Township 21 North, Range 13 East of the Indian Base and Meridian, Tulsa County, State of Oklahoma, according to the U.S. Government Survey thereof.

23. On December 7, 2000, a copy of the quit-claim deed described in paragraph 21 was filed with the Clerk of Tulsa County, Oklahoma, as Document Number 00129917, Book 6450, page 2402.

24. On June 16, 1999, defendant City of Owasso, Oklahoma, recorded a perpetual sanitary sewer easement through the Owasso Property with the Clerk of Tulsa County, Oklahoma, as Document Number 99072114, Book 6230, pages 0491 through 0492.

25. On August 8, 2005, Oklahoma Natural Gas Company, a division of defendant ONEOK, Inc., recorded a perpetual pipeline easement through the Owasso Property with the Clerk of Tulsa County, Oklahoma, as Document Number 2005092741.

26. On December 10, 2010, defendant City of Owasso, Oklahoma, recorded a perpetual sanitary sewer easement through the Owasso Property with the Clerk of Tulsa County, Oklahoma, as Document Number 2010112047.

The United States' Federal Tax Liens

27. As a result of the assessments, notices of assessments, demands for payment, and the failure of Charles W. Spencer and Claudette A. Spencer to pay the assessed liabilities referred to in paragraphs 12 and 15, and pursuant to 26 U.S.C. § 6321 and 6322, federal tax liens arose in favor of the United States on the date of each of the assessments, in the amounts of the assessments plus all additions accruing thereon under law. The federal tax liens attached to all property and rights to property then belonging to Charles W. Spencer and Claudette A. Spencer, including the Owasso Property, and to all of their property and rights to property that came into existence thereafter as a matter of law.

28. On the dates and for the unpaid federal tax liabilities set forth below, a delegate of the Secretary of the Treasury filed notices of federal tax lien with the Clerk of Tulsa County, Oklahoma:

- (a) October 22, 2012, for the income tax liabilities of Charles W. Spencer for the 2007 tax year;
- (b) October 22, 2012, for the income tax liabilities of Charles W. Spencer and Claudette A. Spencer for tax years 2006, 2008 and 2009;
- (c) August 4, 2014, for the income tax liabilities of Charles W. Spencer and Claudette A. Spencer for the 2012 tax year;
- (d) August 7, 2014, for the income tax liabilities of Charles W. Spencer and Claudette A. Spencer for the 2011 tax year;
- (e) March 3, 2015, for the income tax liabilities of Charles W. Spencer for the 2013 tax year; and
- (f) March 3, 2015, for the income tax liabilities of Charles W. Spencer and Claudette A. Spencer for the 2013 tax year.

29. By reason of the foregoing, the federal tax liens referred to in paragraph 27 may be enforced against the Owasso Property, and that property may be sold.

WHEREFORE, the United States respectfully requests that the Court enter judgment in favor of the United States and against all other parties to this action on Count I of the complaint as follows:

- (a) Declare that the federal tax liens described in paragraph 27 are valid and subsisting liens that attached to all property and rights to property of Charles W. Spencer

and Claudette A. Spencer as of the dates of the respective assessments made against them, including the Owasso Property;

- (b) Order that any defendant claiming an interest in the Owasso Property superior to the federal tax liens affirmatively demonstrate that interest;
- (c) Order that the federal tax liens described in paragraph 27 be enforced, that the Owasso Property be sold in a judicial sale according to the law, free and clear of any right, title, lien, claim or interest of any other lien holders (except for easements, restrictions, and reservations of record); and that the proceeds of the sale be distributed to the parties in such amounts as this Court determines; and
- (d) Award the United States such other relief as is just and equitable, including awarding the United States its costs.

Dated: November 2, 2020

Respectfully submitted,

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Northern District of Oklahoma

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